

**CERTIFIED**

Internal Revenue Service

Department of the Treasury

District  
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

Internal Revenue Service

Date: ~~Mar~~ 3-0 1985

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were formed on [REDACTED].

Your Declaration of Trust states:

The purpose of the Trust is to provide a funding vehicle to which individuals and entities of all types can make contributions of money and/or property. Said contributions will be for the exclusive purpose of paying for, reimbursing and otherwise defraying expenses incurred by women who have been diagnosed with breast cancer and whose physician(s) have recommended high dose chemotherapy with autologous bone marrow transplant (HDC-ABMT) as a medically appropriate and effective procedure because no health or other insurance policy will cover the recommended procedure. Expenses which Trust Assets could cover in whole or in part include all expenses said cancer patients will incur in seeking and receiving the HDC-ABMT procedure for breast cancer including, but not limited to, hospital bills, physicians' and surgeons' bills, prescription drugs, medical devices, support services, home health care and legal fees and legal expenses incurred in an effort to obtain an insurer's coverage of the procedure. Selection of recipient of funding provided by the trust shall be made in accordance with this Declaration of Trust and ancillary documents adopted by unanimous vote of the trustees.

Eligible recipients must be women who are medical candidates for breast cancer treatment called autologous bone marrow transplant with high doses of chemotherapy whose insurance, if any, and private funds are insufficient to pay for the HDC-ABMT procedures.

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The schedule to Part II states, in part, that this organization was inspired in large part by a [REDACTED] area woman named [REDACTED] and her (unsuccessful) struggle to obtain insurance coverage for the HDC-ABMT procedures.

The information in file states most of the donations have been from the general public who became aware of [REDACTED]'s situation through the media and from Drug Enforcement Administration agencies and agents. [REDACTED]'s husband is a special agent for the [REDACTED] office of the Drug Enforcement Administration. He is also one of the three trustees who created this trust.

To date, the fund has received \$[REDACTED] in contributions. Of the amount, \$[REDACTED] was paid on behalf of [REDACTED] to [REDACTED] to pay for the deposit required by the Medical Complex for the HDC-ABMT procedure. As of [REDACTED], [REDACTED] was the only beneficiary of your trust and you indicated that you anticipated paying additional expenses for [REDACTED] during the [REDACTED] tax year.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that "an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest.

Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

A charitable trust must be set up for the benefit of an indefinite class of individuals, not for specific persons. A trust or corporation organized and operated for the benefit of specific individuals is not charitable.

In *Carrie A. Maxwell Trust, Pasadena Methodist Foundation v. Commissioner* 2 TCM 905 (1943), it has been held that a trust set up for the benefit of an aged clergyman and his wife was not an exempt organization. Despite the fact that the elderly gentleman was in financial need, this was a private trust, not a charitable trust.

Your organization is not organized and operated exclusively for charitable purposes since it provided the funds it collected to pay the medical expenses of a specific individual, [REDACTED], for whom the trust is named. Moreover, because she is the wife of one of your three trustees there is inurement to that trustee in that he is relieved the burden of paying bills for which he may otherwise be obligated.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, *Exempt Organization Appeal Procedures for Adverse Determinations*, which explains in detail your rights and procedures.

[REDACTED]

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosures:  
Publication 892  
Form 6018